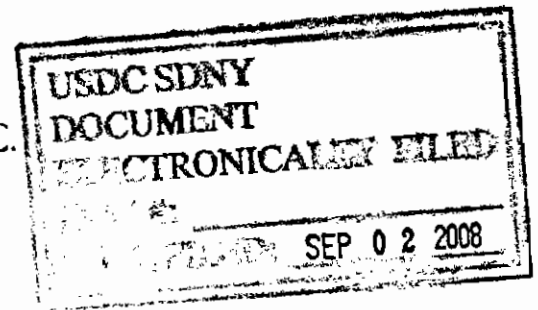


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August 25, 2008

Via Facsimile Only

The Honorable Laura Taylor Swain
United States District Judge
Southern District of New York
United States Courthouse
500 Pearl Street, Room 755
New York, New York 10007

MEMO ENDORSED

Re: Lori Ostfeld v. Merrill Lynch & Co., Inc., Case No. 08 CV ⁰³³⁸⁶~~03886~~ (LTS) (SDNY)

Dear Judge Swain:

This law firm represents Defendant, Merrill Lynch & Co., Inc. ("Merrill Lynch") in the above-entitled action. Pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, Merrill Lynch respectfully requests that the Court reopen the action, which was closed pursuant to this Court's Order, dated July 10, 2008, which Order provided that the case would be dismissed, case, without prejudice, within thirty (30) days, *i.e.*, on August 9, 2008, based on the parties' representations to the Court that the case was in the process of being settled. Plaintiff's counsel consents to this request, which is based on the facts set forth below.

As part of the parties' final settlement of the action, plaintiff's counsel provided me with a signed Notice of Voluntary Withdrawal With Prejudice, for me to hold in escrow and then file with the Court upon notice of the occurrence of an event referenced in the agreement. Plaintiffs' counsel provided me with notice of the event that allowed me to file the Notice of Voluntary Withdrawal With Prejudice with the Court on August 6, 2008, three (3) days before the expiration of the thirty (30)-day period set forth in the Court's Order, dated July 10, 2008.

On August 6, 2008, the date I received plaintiff's counsel's notice, I was with my 86-year old mother, who was having surgery at New York-Presbyterian Hospital. I remained with her at the hospital overnight. On August 7, 2008, when my mother was discharged from the hospital she returned home with me. She also was bedridden for several days. For these reasons, I regret that I inadvertently neglected to file the Voluntary Stipulation With Prejudice in this action

The Honorable Laura Taylor Swain
August 25, 2008
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before the expiration of the thirty (30)-day period set forth in the Court's Order, dated July 10, 2008.

I apologize to Your Honor for any inconvenience this request to reopen the action may cause the Court and its staff. I also thank you for your kind understanding and consideration in this matter.

Respectfully submitted,



Emilia M. De Meo

cc: Alicia L. Silverstein, Esq.
Counsel for Plaintiff
(via facsimile only)

The Clerk of Court is respectfully directed to accept for filing in the above matter the notice or stipulation of withdrawal with prejudice that is described above.

SO ORDERED.

NEW YORK, NY



LAURA TAYLOR SWAIN

Sept 2, 2008 UNITED STATES DISTRICT JUDGE